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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,458	08/11/2000	Yumi Matsuzaki	195675US0	8810
38108	7590	05/06/2004	EXAMINER	
AJINOMOTO CORPORATE SERVICES, LLC INTELLECTUAL PROPERTY DEPARTMENT 1120 CONNECTICUT AVE., N.W. WASHINGTON, DC 20036			GUZO, DAVID	
			ART UNIT	PAPER NUMBER
			1636	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/636,458

Applicant(s)

MATSUZAKI ET AL.

Examiner

David Guzo

Art Unit

1636

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 9-29.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).  
10. ☐ Other: \_\_\_\_\_

DAVID GUZO  
PRIMARY EXAMINER

Continuation of 2. NOTE: The amendment filed 4/20/04 will not be entered because it does not comply with the requirements of 37 CFR 1.121. Specifically, the claim listing does not include the status of all claims that have ever been pending in the application (the status of Claims 1-8 has not been listed). Also, limitations newly added to claims 9, 10 and 29 raise new issues concerning the level of homology and the size of the plasmid comprising SEQ ID NO:4 which would require further considerations. Also, the instant amendment has been improperly filed under 37 CFR 1.111 rather than 37 CFR 1.116. It is noted that the previous Office Action was a FINAL Rejection.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments are based upon entry of the after final amendment. Since the amendment has not been entered said arguments are moot. With regard to the enablement (Deposit) rejection over claims 11-14, applicants' submission of deposit certificates and a statement that all restrictions will be irrevocably removed upon granting of the patent is acknowledged; however, all of the deposit requirements have not been fulfilled because the specification does not indicate the name and address of the depository currently having the deposited materials. The specification refers to transfer of the deposited materials to "an international depository" without referring to the name and address of said "international depository". The enablement rejection will be maintained until all of the deposit requirements are met.